

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

KEPA KAULIO FUNN,

Plaintiff,

vs.

MARTIN O'MALLEY, *Commissioner of
Social Security*,

Defendant.

Case No. 24-cv-00301-DKW-RT

**ORDER DENYING
APPLICATION TO PROCEED IN
DISTRICT COURT WITHOUT
PREPAYMENT OF FEES OR
COSTS¹**

Plaintiff Kepa Funn moves to proceed *in forma pauperis* in this action that seeks review of a decision rendered by the Social Security Administration (“IFP Application”). Dkt. No. 2.

Pursuant to 28 U.S.C. § 1915(a)(1), federal courts may authorize the commencement of suit without prepayment of fees or securities by a person who submits an affidavit demonstrating the inability to pay. Although Section 1915(a) does not require an IFP applicant to demonstrate absolute destitution, *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948), he must nevertheless “allege poverty with some particularity, definiteness, and certainty.” *Escobedo v. Applebees*, 787 F.3d 1226, 1234 (9th Cir. 2015) (quotation marks and citations omitted). The affidavit is sufficient where it alleges that the applicant “cannot pay

¹Pursuant to Local Rule 7.1(d), the Court elects to decide this matter without a hearing.

the court costs and still afford the necessities of life.” *Id.* (citing *Adkins*, 335 U.S. at 339); *see* 28 U.S.C. § 1915(a)(1).

Here, Funn has failed to make the requisite showing under Section 1915(a). In his IFP Application, Funn alleges that his monthly income consists of \$4,524.42 in veterans’ disability pension payments.² *See* Dkt. No. 2 at 1. In addition, he has \$3,500 in cash or in a checking or savings account, \$101,000 in various assets,³ and at least a partial interest in five properties worth between \$135,000 and \$800,000.⁴ *See id.* at 2–3. On the other side of the ledger, Funn has four dependents and regular monthly expenses totaling \$6,545.91, including: \$1,785 on housing; \$790 on utilities, including entertainment services; \$227.10 on insurance; \$148 on medical; \$450 on gasoline; \$800 on food; and \$2,345.81 for loans and his credit card. *See id.*

In light of these figures, the Court finds that Funn’s financial circumstances do not indicate that he lacks the ability to pay the \$405 filing fee for this action while still being able to afford the necessities of life. Although Funn’s expenses may exceed his monthly veterans’ disability payments, he nevertheless has

²This amount alone exceeds the poverty threshold identified in the Department of Health and Human Services’ (“HHS”) 2024 Guidelines for Hawai‘i. *See* HHS Poverty Guidelines, available at: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

³More granularly, Funn lists: \$38,000 in a TSP 401(k); \$23,000 in a Betterment IRA rollover account; a Toyota Tundra worth \$28,000; and a Honda Accord worth \$12,000.

⁴The current value of these properties totals \$1,900,000, with a balance of \$1,274,000 due. *See* Dkt. No. 2 at 3.


significant assets—including \$3,500 in cash or in a checking or savings account—which are more than sufficient to pay or provide security for the civil filing fee. Moreover, the other indicia Funn offers—namely, that he has at least part-ownership of four investment properties in addition to his primary residence—strongly suggest his ability, not inability, to meet this Court’s filing fee requirements. The IFP Application, Dkt. No. 2, is therefore DENIED.

Funn may have until **August 9, 2024** to pay the requisite \$405 filing fee. **The Court cautions Funn that failure to pay the filing fee by that date will result in the automatic dismissal of this action without prejudice and without further notice.**

IT IS SO ORDERED.

DATED: July 23, 2024 at Honolulu, Hawai‘i.




Derrick K. Watson
Chief United States District Judge

Kepa Kaulio Funn vs. Martin O'Malley; Civil No. 24-00301 DKW-RT;
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